

Wilma McNabb Day

BULLETIN

OF THE

Illinois State
Historical Library

Volume I.

June 1, 1906.

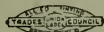
Number II.

Laws of the Territory of Illinois
1809-1811.

Edited by

CLARENCE WALWORTH ALVORD,
University of Illinois.

SPRINGFIELD, ILLINOIS.



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- *Bulletin of the Illinois State Historical Library. Volume I., No. 1, September, 1905. Illinois in the Eighteenth Century. By Clarence Walworth Alvord, University of Illinois. 38 pages, 8 vo., Springfield, 1905.
- Circular Illinois State Historical Library. Volume I., No. 1, November, 1905. An outline for the study of Illinois State History. Compiled under the direction of the Board of Trustees of the Illinois State Historical Library. By Mrs. Jessie Palmer Weber, Librarian Illinois State Historical Library, and Secretary of the Illinois State Historical Society; assisted by Georgia L. Osborne, Assistant Librarian. 94 pages, 8 vo., Springfield, 1905.

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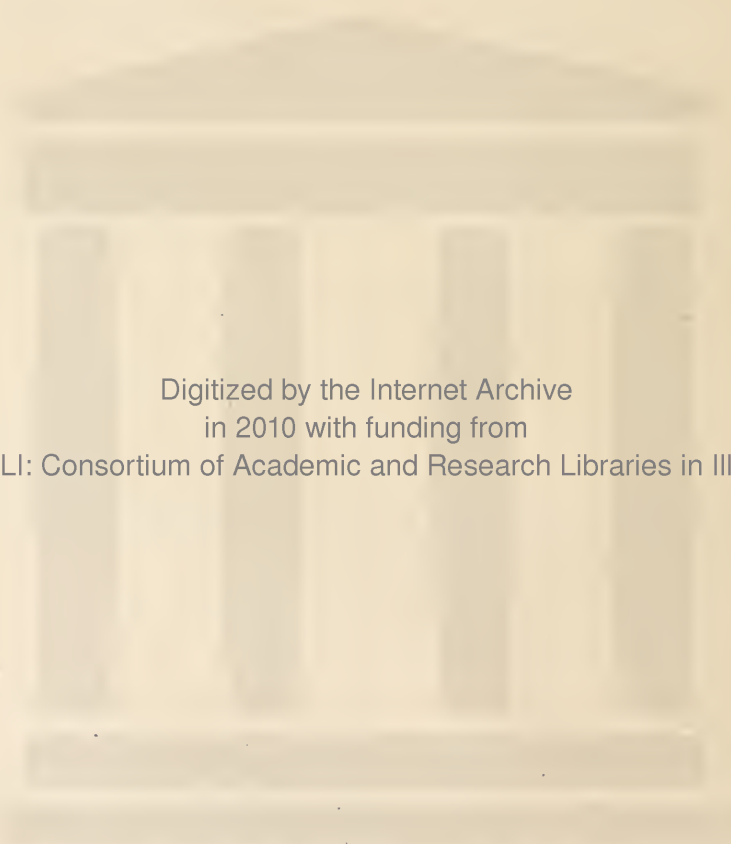
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TABLE OF CONTENTS.

INTRODUCTION.	PAGE.
1. The adoption of the Indiana laws.....	1
2. An act repealing certain laws and parts of laws.....	1
3. An act concerning the courts of common pleas and county courts.....	2
4. An act to regulate the time of holding the general court.....	3
5. An act in addition to an act, entitled, "An act repealing certain laws and parts of laws".....	3
6. An act concerning the general court.....	3
7. A law respecting arrearages due the former sheriff.....	5
8. An act concerning county courts.....	6
9. A law to repeal an act entitled, "A law to alter and repeal certain parts of an act, entitled, 'A law to regulate county levies;'" and to enforce the collection of the county levies for the year eighteen hundred and nine.....	6
10. A law to prevent frauds and perjuries. Adopted from the Kentucky code.....	8
11. An act concerning certain fees in the general court.....	10
12. An act appropriating fines, amercements, penalties, forfeitures and taxes imposed on law process to the use of the Territorial government.....	10
13. An act to authorise the guarding of county jails. Adopted from the Kentucky code.....	11
14. A law giving the sheriff of the county of Randolph further time to make out and deliver a list of persons and property liable to taxation in the said county for the year eighteen hundred and nine and to give him further time for the collection thereof.....	11
15. An act concerning appeals from the judgment of justices of the peace to the county courts. Adopted from the Kentucky code.....	12
16. An act concerning the clerks of county courts.....	14
17. An act repealing part of a law, entitled, "A law for the prevention of vice and immorality".....	14
18. An act concerning fornication and adultery. Adopted from the Georgia code.....	14
19. An act regulating the manner of taking depositions. Adopted from the Georgia code.....	15
20. An act prescribing the duty of sheriffs in a certain case. Adopted from the Georgia code.....	16
21. An act to repeal part of an act of the General Assembly of the Indiana Territory, passed the seventeenth day of September, in the year, one thousand eight hundred and seven, entitled, "An act respecting crimes and punishments".....	16
22. An act repealing part of an act, entitled, "An act concerning appeals from the judgment of justices of the peace to the county courts".....	17
23. A law concerning grand jurors. Adopted from the Kentucky code.....	17
24. An act to prevent unlawful gaming. Adopted from the Virginia code.....	18
25. An act repealing parts of certain acts.....	24
26. An act to suppress duelling. Adopted from the Virginia code.....	25
27. A law concerning advertisements.....	27
28. An act repealing so much of the law for regulating county levies, as imposes a tax on neat cattle.....	28
29. An act concerning courts of common pleas.....	28
30. An act concerning the powers of the Governor of the Territory of Illinois. Adopted from the constitution of the State of Pennsylvania.....	29
31. An act concerning occupying claimants of land. Adopted from the Kentucky code.....	29
32. A law concerning militia. Adopted from the militia law of South Carolina.....	32
33. A law concerning militia. Adopted from the Kentucky code.....	33
4. A law altering the time of holding the general court at Cahokia.....	33
An act to repeal an act, entitled, "An act to encourage the killing of wolves".....	34



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LAWS OF THE TERRITORY OF ILLINOIS, 1809-1811.

INTRODUCTION.*

Second only in importance to the Constitution of the United States is the act, which established civil government in the old Northwest. The Ordinance of 1787 is one of the last acts of the old Congress, and was passed at a time when already the convention was in session to create the Federal Union. The principles of government and law enacted by it have formed the foundation upon which has been built the territorial system of the United States.

In order to understand, therefore, the following laws of the Territory of Illinois, which are published under one cover for the first time in these pages, it is necessary to begin with a study of this noted Ordinance. There were contained in it certain broad principles of justice and liberty, which were the basis of the later territorial codes. Provision also was made for two grades of territories; but only the first concerns us here, for the following laws were passed before Illinois had taken the second step toward statehood. The governing body of the first grade consisted of a governor and three judges appointed at first by Congress, and later by the president with the advice and consent of the Senate. They, or a majority of them, were empowered to, "adopt and publish in the district, such laws of the original states, criminal and civil, as may be necessary, and best suited to the circumstances of the district, and report them to Congress, from time to time; which laws shall be in force in the district until the organization of the General Assembly, unless disapproved by Congress."¹

The laws, which were passed or adopted by this first Legislature of, "The Territory Northwest of the River Ohio," were printed before the end of the century in four volumes and were in part incorporated in the codes of the later territories of Indiana and Illinois. At the outset a dispute arose between the judges and the governor in regard to the exercise of their legislative right. The Ordinance of 1787 limited the action of the Legislature to the adoption of laws of the original states; but the judges proceeded to act, as if invested with full legislative power. This caused criticism both in the territory and

* Compare the Introduction to the first edition of this publication prepared by Edmund J. James.

¹ The Ordinance of 1787 has been frequently printed. See *United States Statutes at Large*, I., 51-53.

in Congress; and the latter, in 1794, took the question under consideration, but, probably since the ordinance was sufficiently explicit, passed no resolution on the subject.¹ Thereafter territorial judges were more careful to observe the limitations imposed upon them; but laws passed for other conditions did not always meet the requirements of a new country, and changes in the texts of the laws were not infrequent.² In 1872, an extension was made by Congress to the legislative power of the governor and judges by empowering them to repeal any law previously adopted.³

The code brought together by the first Legislature of the Northwest has all the earmarks of cruelty so characteristic of the law of England and the English colonies during the seventeenth and eighteenth centuries. Stocks, the pillory, and the whipping post, were set up in every county of the territory and put in use for numerous offences. "Thus, for obstructing the authority of a magistrate, the offender shall be fined not more than \$300 and receive not to exceed thirty-nine lashes. For larceny, the convicted party, besides restoring double the value of the thing stolen, is required to pay a fine of the same amount, or be whipped not exceeding thirty-nine lashes, according as the court shall determine."⁴ The criminal code was nearly completed by the Legislatures of the Northwest and Indiana territories, so that it was not necessary for the governor and judges of Illinois to make many additions to it.

In 1800 the first division of the Northwest was made, the western part, including Indiana and Illinois, being called the territory of Indiana. Within the limits of the new territory there was a small population of a few thousand in three main settlements, at Vincennes, on the Ohio near Fort Massac and at Clark's Grant, and around the French villages on the Mississippi. Three counties had been already established, Knox, St. Clair and Randolph. The seat of government was at Vincennes.⁵

Apparently without special enactment the governor and judges enforced the laws which had been already adopted by the legislature of the whole Northwest, occasionally repealing those not available.⁶ The first new laws adopted were printed at Frankfort, Kentucky, in 1802; others were printed in Vincennes in 1804; and in 1807, when Indiana had passed to the second grade of territory, the general assembly made a revision of all the territorial laws, and enacted, "That the laws and parts of laws in force in the territory at the beginning of this session of the legislature shall be, and the same are hereby repealed, and the revisal of the said laws as made by John Johnson and

1 *Annals 3d Congress*, 1214 and 1233; Howe, *Laws and Courts of Northwest and Indiana Territory*; Indiana Hist. Soc. Pamphlets, No. 1, p. 9; Smith, *St. Clair Papers*, 11., 356; Hinsdale, *Old Northwest*, 298 *et seq.*

2 Burnet, *Notes on the Northwestern Territory*, 63.

3 *U. S. Statutes at Large*, 1., 286.

4 Howard, *Local Constitutional History of United States*, I., 416 *et seq.*; Compare also: Howe, *Laws and Courts of Northwest and Indiana Territories*; Indiana Hist. Soc. Pamphlets, No. 1, pp. 1 *et seq.*; Edwards, *History of Illinois, and Life of Ninian Edwards*, 155 *et seq.*

5 Howe, *Laws and Courts of Northwest and Indiana Territory*, 12; Hinsdale, *Old Northwest*, 307; Dunn, *Indiana*, 295.

6 Howe, *Law and Courts of Northwest and Indiana Territories*, 11.

John Rice Jones shall, with the several additions, alterations and amendments made by the present legislature, have full force and effect in this territory; and that those laws so revised, altered and amended, shall, with the laws passed at this session of the legislature, be the only statute laws in force in this territory."¹ These revised statutes of Indiana fill a volume of 540 pages and are the laws adopted at the first meeting of the governor and judges of Illinois. They, therefore, form the bulk of Illinois' first code, and the laws printed in this "Bulletin" are but supplementary to them.

The journey from the bottom lands of the Mississippi to the capital of the territory was long and difficult; so it is not surprising that as early as 1806 the settlers in and around the old French villages began petitioning Congress that a new territory be created out of the more western part. The petition was repeated for two years; and, in spite of opposition of the eastern division, was granted on January 18, 1809, and received the approval of the president February 5. The law went into effect March first. The new territory was called Illinois.²

The governor appointed by the president was Ninian Edwards; the secretary, Nathaniel Pope; and the judges, Alexander Stuart, Obadiah Jones and Jesse B. Thomas. The last named resided at the time of his appointment in Indiana; but his advocacy, as territorial delegate to Congress, of the division of the territory, had made him so unpopular across the line that he was glad of an opportunity to identify himself with the new territory.³ On March 10, 1810, Stanley Griswold was appointed in place of Obadiah Jones;⁴ but these judges were relatively less active in the work of legislation than the others, as may be seen by the signatures to the successive enactments. The governor, however, appears to have been very conscientious in the performance of his duties and missed only two meetings, when in accordance with the provisions of the law the secretary took his place.

On June 13, 1809, the first legislature of Illinois territory met in the house of Thomas C  x at Kaskaskia. The governor with Judges Stuart and Thomas were present. Their first act was to adopt the Indiana laws except those which were of local character, thus making law for Illinois the code which had been evolved by the two preceding governments, that of the whole Northwest and that of Indiana.

In all, thirty-five laws were passed by this temporary legislature. It will be noted that it is not always stated from what state codes these laws were adopted; nor was it necessary in all cases, since the power of repealing previously adopted laws resided in the legislature and many of the following enactments are simply cases of repeal; others are mere regulations for the administration of the laws. As might be expected the laws of Kentucky were the most popular in Illinois, and six were adopted from the code of that state. This was certainly contrary to the letter of the ordinance of 1787, since Ken-

¹ *Revision of 1807*, p. 539. The quotation is taken from Howe, *Laws and Courts*, 17.

² *Annals 9th Congress, 2nd Session*, 590; *ibid 10th Cong., 1st Sess.*, Vol. 2, pp. 1976, 2067; *ibid*, 2nd Sess., 18, 327, 330, 335, 338, 815, 882, 1808.

³ Davidson and Stuve, *History of Illinois*, 244.

⁴ Edwards, *History of Illinois and Life of Ninian Edwards*, 28.

tucky was not one of the original states. Three laws are taken from Georgia, and one each from Virginia, South Carolina and Pennsylvania. Eleven were, therefore, adopted from southern states and only one from a northern. The full significance of this is realized, when compared to the sources of the laws adopted by the governor and judges of the Northwest territory. In the so called "Maxwell Code" of 1795, thirty-four laws were taken from northern states and only three from southern.¹

In the year 1812, Illinois passed out of the first stage of territorial government and a legislature was elected by the people, which made many changes in the old laws and enacted many new ones. In June, 1815, a revision of the territorial laws was made by Nathaniel Pope and published by Matthew Duncan, printer to the territory. But the earlier laws of the governor and judges were never collected, although Governor Edwards, in 1812, had some correspondence on the subject with Joseph Charless of St. Louis, publisher of the "Louisiana Gazette."² When these laws became of historical interest, in some unaccountable way they had disappeared from those depositories, where they should have been preserved. The history of the loss and finding of these documents is of sufficient interest to be noticed.

In 1897, Dr. Edmund J. James, in the interest of the State Historical Library, caused search to be made for the territorial laws in the archives of Springfield, but without success, although Judge Gross of that city was sure that he had seen the originals in the Secretary of State's office. Since the Ordinance of 1787 required that copies of all acts should be sent to the Secretary of Congress—later this was changed to the Secretary of State—the search was extended to the archives of Washington, with the result that copies of the last four laws were found. Convinced that these were the only existing records of the first Legislature of Illinois, Dr. James published them in "Publication" of the Illinois State Historical Library with a list of the titles of the laws adopted, which was found in the "Executive Register of the Illinois Territory."³

Within the past few months the search was renewed by the department of historical research of the Carnegie Institution. Since Congress on May 8, 1892, enacted, "That laws of the Territory Northwest of the River Ohio, that have been or hereafter may be enacted by the Governor and Judges thereof, shall be printed under the direction of the Secretary of State", the search was extended to the printed volumes of the territorial laws;⁴ but the result was the same as in the case of the search initiated by Dr. James. The above enactment was not extended to the territory of Illinois.

In the summer of 1905, the writer was sent by the State Historical Library into southern Illinois to search for historical material. Hidden away on the top of the book-cases in the circuit clerk's office at

1 Howe, *Laws and Courts of Northwest and Indiana Territories*, 16.

2 Washburne, *The Edwards Papers*, 67.

3 *Publications of the Illinois State Historical Library* Number 2. Information relating to the Territorial Laws of Illinois, passed from 1809 to 1812. Prepared by Edmund J. James, Ph. D. Phillips Bros., State Printers, 1899.

4 *Annals 2nd Congress*, 139.

Chester were found some sacks and packages of old documents, which had been brought from Kaskaskia, when the county seat was moved. Most of these, which were of historical interest, dated from the eighteenth century; but among them was one bundle of papers tied with buckskin, which proved to contain the copies of these territorial laws made for the county of Randolph. Five were missing, the four which had been found by Dr. James and No. 18 of the following laws.

Previous to this discovery, but unknown to me, other copies had come to light. The Ordinance of 1787 empowered the governor and judges to "adopt and publish" the laws. This may only mean to put into execution; but it is probable that such was not the interpretation of the governments of the Northwest and Indiana territories, since they made provision to have their laws printed soon after adoption. This was the best means of letting the public know what the law was. The governor and judges of Illinois followed the example of their predecessors. There was no printer at the time in the territory; but in July, 1808, Joseph Charless had established at St. Louis the "Missouri Gazette," which was rechristened the "Louisiana Gazette" in the fall of 1809. This was the source of news for the inhabitants on the east bank of the river and the medium used by the governor and judges of Illinois to make public the laws, which they had adopted. Permission was also given to publish legal advertisements in a newspaper of the Louisiana Territory.¹ Publishing the laws in a newspaper of another territory had its inconveniences and evidently gave rise to the plea of ignorance of the law; for the elected legislature of 1815 felt it necessary to grant relief to those who, by breaking the law for the suppression of duelling, had become ineligible for office, since it "was never published in this territory, until the publication of the late revision of the laws of this territory, and many therefore remained ignorant of the law."²

The credit of finding these printed copies of the laws belongs to Judge W. L. Gross of Springfield, by whom copies were made for the Secretary of State's office. The files of the "Louisiana Gazette" in the office of the "St. Louis Republican" are not quite complete, and among the missing is the issue containing laws 34 and 35, so that these are reprinted from Dr. James' publication.

In this edition of the laws the clerk's copy for Randolph county has been followed and all variant readings of the printed copy have been noticed in the foot-notes or inserted in brackets in the text.³ The punctuation and capitalization of the printed copy are more in accordance with modern standards; and since nothing can be gained by reproducing the peculiarities of the Randolph county clerk, the text has been modernized in these two particulars. The language and the orthography are unaltered. The order of the laws followed is strictly chronological, and does not agree with that of the printed copy and of the "Executive Register." The laws appeared in the "Louisiana Gazette" as follows:

¹ See law No. 27.

² *Laws of Illinois Territory, fourth session, 1815-16.* Reprinted 1898, p. 10.

³ Miss Mary Louise Dalton, Librarian of the Missouri Historical Society, made for me a very careful comparison of the two texts.

1810.

February 15.	Nos. 1, 2, 5, 3, 4, 9.
February 22.	Nos. 8, 6, 7.
March 1,	Nos. 10, 12, 11.
March 8.	Nos. 13, 14, 16, 17, 18.
March 15,	No. 15.
April 5.	Nos. 21, 22, 19, 20, 23, 22, (repeated).
April 12.	No. 24.
May 10.	No. 25.
June 7,	Nos. 26, 27.

1811.

April 11,	Nos. 28, 29.
April 18,	Nos. 31, 30.
July 11,	No. 32.
August 1.	No. 33.

These old laws have long since lost their legal value, but it is some satisfaction to the historian that at last the legislative records of the State are complete.

LAWS

— OF THE —

TERRITORY OF ILLINOIS—1809-1811.

ILLINOIS TERRITORY.¹

13th June, 1809.

This day Ninian Edwards, Governor of the Illinois Territory, Alexander Stuart and Jesse B. Thomas, Judges in and over the Territory aforesaid, met at the home occupied by Mr. Thomas Cox in the town of Kaskaskia, and after mature deliberation, they hereby resolved as their opinion that the laws of Indiana Territory of a general nature and not local to that Territory are still in force in this Territory as they were previous to the first day of March last.

NINIAN EDWARDS,
ALEX. STUART,
JESSE B. THOMAS.

AN ACT *repealing certain laws and parts of laws.*

Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same: That the laws and parts of laws hereinafter particularly enumerated and expressed be the same and are hereby repealed, to-wit:

The act to organize a court of chancery passed by the General Assembly of the Indiana Territory on the seventeenth day of September, eighteen hundred and seven.

So much of the third section of the act for the appointment of justices of the peace within the several counties of the Territory and prescribing their duties and powers therein, passed by the General Assembly of the Indiana Territory on the seventeenth day of September, eighteen hundred and seven, as makes it the duty of the justices of the peace to punish assaults and batteries.

So much of the sixth section of the act regulating the admission and practice of attorneys and counsellors at law passed by the General Assembly of the Indiana Territory on the seventeenth day of September, eighteen hundred and seven, as prohibits the admission of attorneys and counsellors at law to practice in the courts in this Territory who are not residents thereof.

The third and fourth sections of the act in addition to an act entitled, "An act regulating the practice in the general court, courts of common pleas and for other purposes," passed by the General Assembly of the Indiana Territory on the twenty fifth day of October, eighteen hundred and seven.²

¹ *Louisiana Gazette*, Feb. 15, 1810: "The following LAWS have been adopted by the Governor and Judges of the Illinois Territory."

² "eighteen hundred and eight."

[And the sixth section of the act organizing courts of common pleas, passed by the General Assembly of the Indiana Territory on the seventeenth day of September, eighteen hundred and seven].

The foregoing is hereby declared to be a law of the Territory and to take effect and be in force from the date thereof.

In testimony whereof, we, Ninian Edwards, Governor, and Alexander Stuart, and Jesse B. Thomas, Judges, have hereunto signed our names at Kaskaskia, the sixteenth day of June, in the year of our Lord one thousand eight hundred and nine. and of the Independence of the United States the thirty-third.

NINIAN EDWARDS,
ALEXR. STUART,
JESSE B. THOMAS.

AN ACT concerning the courts of common pleas and county courts.

Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same: That all the jurisdiction over suits and process of a civil and criminal nature heretofore vested and exercised by the court of common pleas shall hereafter be vested in, [and] exercised and discharged by a judge of the general court.

Sec. 2. There shall be holden in each county two terms of the common pleas at which one of the judges of the general court (agreeably to arrangement between themselves) shall preside. The courts so to be holden¹ in the county of Randolph shall be holden in the town of Kaskaskia on the second Mondays in April and September, in each year, and shall continue until the business of the court is finished. The court to be holden in the county of St. Clair shall be held in the town of Cahokia on the fourth Mondays in April and September, in each year, and shall continue until the business of the court is finished.

Sec. 3. *And be it [further] enacted by the authority aforesaid:* That the justices of the peace for the respective counties, or any three or more of them, shall be and they are hereby constituted a county court who shall have, possess and exercise all jurisdiction (except over suits and process of a civil and criminal nature) that has hitherto been possessed and exercised by the court of common pleas, and the said county court shall hold six terms in each year in their respective counties at the same place, at which the court of common pleas are by this act required to be holden, and at the times heretofore prescribed by an act, entitled, "An act organizing courts of common pleas," passed by the Legislature of the Indiana Territory on the seventeenth day of September, in the year eighteen hundred and seven.

Sec. 4. *Be it [further] enacted by the authority aforesaid:* That so much of any law as requires the appointment of three judges to the court of common pleas and all other laws and² parts of laws repugnant to this act or within the perview thereof shall and the same is hereby repealed.

¹ "The court to be holden"

² "or parts of law or laws"

The foregoing is hereby declared to be a law of the Territory, and to take effect and be in force from the date thereof.

In testimony whereof, we, Ninian Edwards, Governor, and Alexander Stuart and Jesse B. Thomas, Judges, have hereunto signed our names, at Kaskaskia, the sixteenth day of June, in the year of our Lord eighteen hundred and nine, and of the Independence of the United States the thirty-third.

NINIAN EDWARDS,
ALEXR. STUART,
JESSE B. THOMAS.

AN ACT to regulate the time of holding the general court.

*Be it enacted by the Governor and Judges of the Illinois Territory and it is hereby enacted by the authority of the same:*¹ That the general court shall be held two terms yearly, and every year in the town of Kaskaskia, to commence on the last Mondays in March and August, and to continue until the business is finished.

The foregoing is hereby declared to be a law of the Territory to take effect and be in force from the date thereof.

In testimony whereof, we, Ninian Edwards, Governor, and Alexander Stuart and Jesse B. Thomas, Judges, have hereunto signed our names, at Kaskaskia, the sixteenth day of June in the year of our Lord eighteen hundred and nine, and of the Independence of the United States the thirty-third.

NINIAN EDWARDS,
ALEXR. STUART,
JESSE B. THOMAS.

AN ACT in addition to an act, entitled, "An act repealing certain laws and parts of laws."

SEC. 1. *Be it enacted by the Governor and Judges of the Illinois Territory and it is hereby enacted by the authority of the same:* That the second section of a law, entitled, "An act regulating the general court," passed by the General Assembly or Legislature of the Indiana Territory on the seventeenth day of September, eighteen hundred and seven, and also an act, entitled, "An act to prevent unnecessary delays in causes after issue joined," passed by the Legislature of the Indiana Territory on the seventeenth day of September, eighteen hundred and seven, be and the same are hereby repealed.

The foregoing is hereby declared to be a law of the Territory to take effect and be in force from the date thereof.

In testimony whereof, we, Ninian Edwards, Governor, and Alexander Stuart and Jesse B. Thomas, Judges, have hereunto signed our names, at Kaskaskia, the nineteenth day of June, in the year of our Lord eighteen hundred and nine, and of the Independence of the United States the thirty-third.

NINIAN EDWARDS,
ALEXR. STUART,
JESSE B. THOMAS.

AN ACT concerning the general court.

SEC. 1. *Be it enacted by the Governor and Judges of the Illinois Territory and it is hereby enacted by the authority of the same:* That there shall annually be held four terms of the general court, two of

¹ "aforesaid" instead of "of the same."

which shall be held in the town of Kaskaskia, in the county of Randolph, on the second Mondays of April and September, and two shall be held in Cahokia, in the county of St. Clair, on the fourth Mondays in April and September.

SEC. 2. The general court shall have jurisdiction, both original and final, over all suits and process of a civil and criminal nature, that was heretofore vested in, and exercised by the general court, the circuit courts and the courts of common pleas under any law or laws of the Legislature of the Indiana Territory, except in cases of appeal from the judgment of a justice of the peace where the sum does not amount to twenty dollars, exclusive of costs.¹

SEC. 3. All suits and process of a civil and criminal nature shall be tried and determined in the county in which such suit or process originated.

SEC. 4. For the convenience of the citizens of this Territory it shall be the duty of the clerk of the general court to keep one branch of his office at Kaskaskia and the other at Cahokia. All the business that pertains to the duty of clerk which may originate in the county of Randolph shall be transacted and confined to the office at Kaskaskia, and all the business that pertains to the duty of clerk which may originate in the county of St. Clair shall be transacted in and confined to the office at Cahokia.

SEC. 5. It shall be the duty of the clerk of the general court to superintend both branches of his office. He shall have power to appoint as many deputies as he may find necessary and shall be answerable for their misconduct; and all such deputies shall take a similar oath to that prescribed for the clerk.

SEC. 6. And whereas, there are many suits now depending, which originated in the courts of common pleas, and of which the general court by this law has jurisdiction: *Be it enacted by the authority aforesaid:* That the clerk of the general court shall promptly and without delay demand all the papers, exhibits, etc., in each of such suits of the clerks of the respective courts of common pleas, and it shall be their duty to deliver the same accordingly; and when the papers are thus delivered it shall be the duty of the clerk of the general court immediately so to arrange such causes on the docket as that they may come on for trial with the utmost dispatch and in the same order that they ought to have stood in the court of common pleas, had not this law been passed.

SEC. 7. *Be it further enacted:* That all process which has heretofore issued, returnable to the courts of common pleas or general court, shall be considered as properly returnable to the first sessions of the general court in the counties in which such process respectively issued, and all bails, recognizances and every kind of business, which may have been transacted under the existing laws that would

¹ The printed copy is very faulty, thus: "in each of such suits of the clerks of the respective courts of common pleas, and it shall be their duty of the clerk of the general court immediately, so to arrange, etc."

have been obligatory in the courts of common pleas or general court, shall be obligatory and cognizable in like manner in the general court, as regulated by this act.

SEC. 8. The sheriff of Randolph county shall attend the general court at its terms in Kaskaskia, and shall execute all process and perform all those duties that belong to his office that may originate in the county of Randolph; and the sheriff of St. Clair county shall attend the general court at its terms in Cahokia, and shall execute all process and perform all those duties that belong to his office that may originate in the county of St. Clair.

SEC. 9. The clerks of the respective courts of common pleas shall, when thereto required, deliver to the clerk of the general court all other papers, records, etc., belonging to their respective offices, which, when delivered, shall by the clerk of the general court be kept separate and apart from the papers belonging to suits now depending in the said courts of common pleas.

SEC. 10. *Be it further enacted by the authority aforesaid:* That the first and second sections of a law passed on the sixteenth day of June, eighteen hundred and nine, entitled, "An act concerning courts of common pleas and county courts," and all other laws and parts of laws repugnant to this law, shall be, and the same are, hereby repealed.

The foregoing is hereby declared to be a law of the Territory, to take effect and be in force from the date thereof.

In testimony whereof, we, Ninian Edwards, Governor, and Alexander Stuart, Obadiah Jones and Jesse B. Thomas, Judges, have hereunto signed our names, at Kaskaskia, the twentieth day of July, in the year of our Lord one thousand eight hundred and nine, and of the Independence of the United States the thirty-fourth.

A true copy, signed, attest,
WILLIAM ARUNDEL, Clerk.

NINIAN EDWARDS,
ALEX. STUART;
OBADIAH JONES,
JESSE B. THOMAS.

A LAW respecting arrearages due the former sheriff.

Whereas it is represented to this Legislature that the late sheriff of the county of Randolph has neglected to collect all the county levies in the said county and that several arrearages are now due to him.

Be it therefore enacted: That James Gilbreath, late sheriff of the said county of Randolph, shall at the next county court to be held¹ for the said county deliver and produce on oath to the said court a full, just and true account of all the sums which he has collected, or ought to have collected, for the use of the said county, noting therein the names of delinquents and the sums respectively due; and he shall also at the same time deliver on oath a true and perfect account of all monies by him paid for the use of the said county, stating therein the amounts paid to whom and by what authority,

1 "holden" for "held."

and produce to the said court his original vouchers and receipts therefore. And the said county court on the said sheriffs performing the requisits by this act directed shall thereupon give him a warrant under their hands and seals, authorising him to receive the amount of the said arrearages, and all fees due to him at any time within six months from the date thereof, by virtue whereof the said late sheriff shall have the same power to collect the said arrearages in the same manner he might have done under the laws of the Territory, if he had proceeded to collect the same in the time required by law.

The foregoing is hereby declared to be a law of the Territory to take effect and be in force from the date thereof.

In testimony whereof, we, Ninian Edwards, Governor, and Alexander Stuart, Obadiah Jones and Jesse B. Thomas, Judges, have hereunto signed our names the twentieth day of July, in the year of our Lord one thousand eight hundred and nine, and of the Independence of the United States thirty-fourth.

NINIAN EDWARDS,
ALEX. STUART,
OBADIAH JONES,
JESSE B. THOMAS.

A true copy, attest.

WILLIAM ARUNDEL, Clerk.

AN ACT concerning county courts.

Be it enacted by the Governor and Judges of the Illinois Territory and it is hereby enacted by the authority of the same: That;

SEC. 1. The county courts for the county of Randolph shall be held in the town of Kaskaskia, and the county court for the county of St. Clair shall be held in the town of Cahokia.

SEC. 2. *Be it further enacted:* That the county courts shall have jurisdiction (in the several counties) of appeals from judgments of justices of the peace where the judgment shall not exceed twenty dollars besides costs.

SEC. 3. *Be it further enacted;* That the county courts shall sit six days at each term, if the business before the court shall require it.

The foregoing is hereby declared to be a law of the Territory to take effect and be in force from the date thereof.

In testimony whereof, we, Ninian Edwards, Governor, and Alexander Stuart, Obadiah Jones and Jesse B. Thomas, Judges, have hereunto signed our names, at Kaskaskia, the twentieth day of July, in the year of our Lord one thousand eight hundred and nine, and of the Independence of the United States the thirty-fourth.

NINIAN EDWARDS,
ALEX. STUART,
OBADIAH JONES,
JESSE B. THOMAS.

A true copy, attest.

WILLIAM ARUNDEL, Clerk.

A LAW to repeal an act entitled, "A law to alter and repeal certain parts of an act, entitled, 'A law to regulate county levies,'" and to enforce the collection of the county levies for the year eighteen hundred and nine.

Sec. 1. *Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same:*

That the act passed by the Indiana Legislature, entitled, "An act to alter and repeal certain parts of an act, entitled, 'A law to regulate county levies,'" shall be and the same is hereby repealed.

SEC. 2. And whereas provision ought to be made by law for the collection of county levies for the present year; *Be it therefore enacted:* That the sheriffs of the several counties in this Territory shall immediately proceed to receive the lists of all and every species of property made chargeable with taxes by this act and by the law of the Territory, entitled, "A law to regulate the county levies," in the manner required by said law, and that the said sheriffs shall make out and deliver such lists to the clerks of their respective county courts on, or before, the eighteenth day of September next; and the said clerks shall make out a true transcript thereof, which they shall lay before their next succeeding county courts respectively, for their examination and allowances, who shall have all the powers to levy a tax upon their respective counties, which has been heretofore vested in the court of common pleas; and it shall be the duty of the sheriffs of the respective counties to proceed to the collection thereof within the times prescribed by law.

SEC. 3. *Be it further enacted:* That so much of the eleventh section of the said law as requires the courts of common pleas to appoint two free holders in each township to value and appraise such house [in town]. town lot, town out-lot and mansion house in the county, and all water and windmills shall be and the same is hereby repealed; and that the sheriffs of the respective counties shall proceed to appraise and value the same in the same manner, as the said freeholders were by the said law required to do; and the said county courts, at the time when they are by this law required to lay the county tax, shall levy a sum not exceeding thirty cents on each hundred dollars of such appraised valuation.

SEC. 4. *Be it further enacted:* That so much of the thirteenth section of the said law, as authorises sheriffs of the several counties to issue certificates to sell merchandize, shall be and the same is hereby repealed; and that from henceforth every possessor of merchandize shall, previously to offering the same for sale by himself or agent, pay to the sheriff as treasurer the sum of fifteen dollars for the use of the county and take his receipt therefor, which he shall take to the clerk of the county court who shall thereupon file the same and deliver to the person producing the same a certificate in the form prescribed by the said law, altering it, howsoever, so far as to mention that the tax for such certificate had been paid to the sheriff, as it appeared by his receipt delivered to the said clerk; and the said sheriffs and clerks shall keep separate accounts of the monies received and certificates issued, noting therein the dates when paid and issued and to whom, which accounts they shall deliver and produce to the county courts, when required.

SEC. 5. The sheriffs shall settle their accounts annually with their county courts at the times heretofore appointed by law; and at the time of such settlement it shall be their duty respectively to make a fair statement of all the money by them received, from whom, and on

what account, and a like statement of the money by them expended, by virtue of any law or order of the court, which written statement, after settlement with the court, shall be recorded. *Be it therefore [further] enacted by the authority aforesaid:* That such settlement or settlements shall not be a bar to a recovery thereafter against any sheriff, or sheriffs, where it shall clearly appear that he or they have been guilty of fraud or error in such settlement.

SEC. 6. The county courts in each county respectively shall at the same time, at which they are by this law required to levy the tax upon other objects of taxation, levy a tax on located lands not exceeding ten cents in the hundred dollars valuation, as made in conformity to a law of the Indiana Territory for the collection of the territorial taxes, which said tax shall be collected by the said sheriffs respectively at the same time, they are by this law required to collect the other county taxes; and the said sheriffs shall have the same powers to dispose of the whole, or so much of the said land, as shall, in default of payment, be sufficient to pay the said taxes and cost in the same manner as he is authorised to do so by the law of the Indiana Territory for the collection of the territorial tax: *Provided*, that the whole of the tax collected under this section shall be applied exclusively to county buildings.

SEC. 7. The sheriffs shall be allowed, in full compensation for their various duties under this law and the said law to regulate county levies, ten per cent upon all sums by them collected and paid.

The foregoing is hereby declared to be a law of the Territory, to take effect and be in force from the date thereof.

In testimony whereof, we, Ninian Edwards, Governor, and Alexander Stuart, Obadiah Jones and Jesse B. Thomas, Judges, have hereunto signed our name, at Kaskaskia, the twentieth day of July, in the year of our Lord one thousand eight hundred and nine, and of the Independence of the United States the thirty-fourth.

NINIAN EDWARDS,
ALEX. STUART,
OBADIAH JONES,
JESSE B. THOMAS.

A true copy, attest,
WILLIAM ARUNDEL, Clerk.

A LAW to prevent frauds and perjuries. Adopted from the Kentucky Code.

SEC. 1. *Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same:* That no action shall be brought whereby to charge any executor or administrator, upon any special promise, to answer any debt or damages [out] of his own estate, or whereby to charge the defendants upon any special promise to answer for the debt, default or miscarriage of another person, or to charge any person upon any agreement made upon consideration of marriage, or upon any contract for the sale of lands, tenements or hereditaments, or the making any lease for a longer term than one year, or upon any agreement which is not to be performed within the space of one year from the making

thereof, unless the promise or agreement, upon which such action shall be brought, or some memorandum or note thereon, shall be in writing and signed by the party to be charged therewith or some other person by him thereunto lawfully authorised.

SEC. 2. Every gift, grant or conveyance of lands, tenements or hereditaments, goods or chattels, or of any rent, common or profit of the same, by writing or otherwise, and every bond, suit, judgment or execution had, or made and contrived of malice, fraud, covin, collusion or guile to the intent or purpose to delay, hinder or defraud creditors of their just and lawful actions, suits, debts, accounts, damages, penalties or forfeitures, or to defraud or deceive those who shall purchase the same lands, tenements or hereditaments, or any rent, profit or commodity out of them, shall be from thenceforth deemed and taken (only as against the person or persons, his, her, or their heirs, successors, executors, administrators or assigns, and every of them, whose debts, suits, demands, estates and interest by such guileful and covinous devices and practices as aforesaid shall or might be in anywise disturbed, hindered, delayed or defrauded) to be clearly and utterly void; any pretence, color, feigned consideration, expressing of use or any other matter or thing to the contrary notwithstanding; and, moreover, if a conveyance be of goods and chattels and be not on consideration deemed valuable in law, it shall be taken to be fraudulent within this act; unless the same be by will duly proved and recorded; or by deed in writing, acknowledged or proved, if the same deeds include lands also, in such manner as conveyances of land are by law directed to be acknowledged, or proved; or if it be of goods and chattels only, then acknowledged or proved by two witnesses in any court of record in the county, wherein one of the parties lives, within eight months after the execution thereof; or unless possession shall really and *bona fide* remain with the donee; and in like manner where any loan of goods and chattels shall pretended to have been made to any person, with whom, or those claiming under him, possession shall have remained by the space of five years, without demand made or pursued by due process of law, on the part of the pretended lender; or where any reservation or limitation shall be pretended to have been made of an use or property by way of condition, reversion, remainder or otherwise in goods and chattels, the possession whereof shall have remained in another as aforesaid; the same shall be taken as to the creditors and purchasers of the persons aforesaid so remaining in possession to be fraudulent within this act, and that the absolute property is with the possession, unless such loan, reservation or limitation of use or property were declared by will or deed in writing proved and recorded as aforesaid.

SEC. 3. This act shall not extend to any estate or interest in any lands, goods or chattels or any rents, common or profit out of the same, which be upon good consideration and *bona fide* law fully conveyed or assured to any person or persons, bodies politic or corporate.

The foregoing is hereby declared to be a law of the Territory, to take effect and be in force from the date thereof.

In testimony whereof, we, Ninian Edwards, Governor, and Alexander Stuart, Obadiah Jones and Jesse B. Thomas, Judges, have hereunto set our names, at Kaskaskia, the twenty-first day of July in the year of our Lord one thousand eight hundred and nine, and of the Independence of the United States the thirty-fourth.

A true copy, attest,
WILLIAM ARUNDEL, *Clerk*.

NINIAN EDWARDS,
ALEXR. STUART,
OBADIAH JONES,
JESSE B. THOMAS.

AN ACT concerning certain fees in the general court.

Sec. 1. *Be it enacted by the Governor and Judges of the Illinois Territory and it is hereby enacted by the authority of the same:* That all suitors and others having business to do in the general court shall pay the same fees (for the use of the territorial government) as have heretofore been paid by suitors and others for the like services performed by the courts of common pleas and applied to the use of their respective counties.

Sec. 2. *And be it further enacted by the authority aforesaid:* That the offices of government shall have the same power to collect such fees, as hath heretofore been authorised by law, for the recovery and collection of the like fees, imposed by the courts of common pleas for [the use of] their counties respectively, and the officer receiving the same shall be liable to be proceeded against as in other cases of the like nature.

The foregoing is hereby declared to be a law of the Territory to take effect and be in force from the date thereof.

In testimony whereof, we, Ninian Edwards, Governor, and Alexander Stuart, Obadiah Jones and Jesse B. Thomas, Judges, have hereunto set our names, the twenty-first day of July in the year of our Lord one thousand eight hundred and nine, and of the Independence of the United States the thirty-fourth.

A true copy, attest,
WILLIAM ARUNDEL, *Clerk*.

NINIAN EDWARDS,
ALEXR. STUART,
OBADIAH JONES,
JESSE B. THOMAS.

AN ACT appropriating fines, amerciaments, penalties, forfeitures and taxes imposed on law process to the use of the territorial government.

SEC. 1. *Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same:* That all taxes imposed by law process, and all fines, amerciaments, forfeitures and penalties imposed or recorded in the general court shall constitute a fund to defray the expenses of the territorial government.

SEC. 2. That the sheriff of each county shall settle their accounts with the general court at the spring term annually, in the same manner and subject to their same conditions as is prescribed by law for the settlement of their accounts by the county court.

SEC. 3 *Be it further enacted:* That the governor and Judges, or a majority of them, shall have power to draw warrants to defray expenses incurred by the territorial government, whether they be legal

or contingent, upon any person or persons having in his or their possession any money by this act appropriated to the use of the Territory.

The foregoing is hereby declared to be a law of the Territory to take effect and be in force from the date thereof.

In testimony whereof, we, Ninian Edwards, Governor, Alexander Stuart, Obadiah Jones and Jesse B. Thomas, Judges, have hereunto signed our names, at Kaskaskia, the twenty-first day of July, in the year of our Lord one thousand eight hundred and nine, and of the Independence of the United States the thirty-fourth.

NINIAN EDWARDS,
ALEX. STUART,
OBADIAH JONES,
JESSE B. THOMAS.

A true copy, attest,
WILLIAM ARUNDEL, *Clerk*.

AN ACT *to authorise the guarding of county jails. Adopted from the Kentucky code.*

SEC. 1. *Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same:* That if for want of a sufficient jail in any county in which a general court is held, it shall [be] necessary to impress or hire guards for the safe-keeping of any prisoner in the said jail, the general court, or a judge thereof in vacation, shall have full power and authority to order the jailor to impress or hire such guards, and the said court shall certify to the court the amount of the allowance to the said guard, which it shall be the duty of the justices of the said county court to order to be paid out of the county levy.

SEC. 2. To prevent doubts what shall be taken to be a sufficient jail: *Be it further enacted by the authority aforesaid:* That, when the judges of the general court shall receive a county jail for the county and cause the same to be entered on their record, the county thereafter shall be no longer chargeable for the expense of the guards.

The foregoing is hereby declared to be a law of the Territory and to take effect and be in force from the date thereof.

In testimony whereof, we, Ninian Edwards, Governor, and Alexander Stuart, Obadiah Jones and Jesse B. Stuart, Judges, have hereunto signed their names, at Kaskaskia, the twenty-second day of July, in the year of our Lord one thousand eight hundred and nine, and of the Independence of the United States the thirty-fourth.

NINIAN EDWARDS,
ALEX. STUART,
OBADIAH JONES,
JESSE B. THOMAS.

A true copy, attest,
WILLIAM ARUNDEL, *Clerk*.

A LAW *giving the sheriff of the county of Randolph further time to make out and deliver a list of persons and property liable to taxation in the said county for the year eighteen hundred and nine and to give him further time for the collection thereof.*

Whereas the time given to the sheriff of the county of Randolph by a law entitled, "A law to levy, assess and collect the county rates and levies for the year eighteen hundred and nine," has been found too short. For remedy whereof:

SEC. 1. *Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same:* That the sheriff of the said county of Randolph shall have further time until the twenty-fifth day of this instant December to make out and deliver to the clerk of the county court of the said county complete lists and vouchers of persons and property liable to taxation in the said county for the year, eighteen hundred and nine; which lists the clerk of the said court shall file in his office, and make a transcript thereof on, or before, the fourth day of January next and deliver the same to the justices of the county court (who shall meet together on that day at the court-house in Kaskaskia) for their examination and allowance. The bill of tax, being allowed by the said court, they shall thereto annex their warrant under the hand and seal of the presiding justice; and the clerk of the said court shall, five days thereafter, deliver the same to the sheriff for collection; and the said sheriff shall on, or before, the tenth day of March next collect the amount of the tax so laid.

SEC. 2. *And be it further enacted:* That the said sheriff shall proceed in the collection of the said taxes, and shall have the same power and authority to enforce the payment thereof as are provided by law.

This act shall be in force from the passage thereof.

In testimony whereof, we, Ninian Edwards, Governor, and Alexander Stuart, Obadiah Jones and Jesse B. Thomas, Judges, have hereunto signed our names, at Kaskaskia, the twenty-second day of December, in the year of our Lord one thousand eight hundred and nine, and of the Independence of the United States the thirty-fourth.

A true copy, attest,
WILLIAM ARUNDEL, Clerk.

NINIAN EDWARDS,
ALEX. STUART,
OBADIAH JONES,
JESSE B. THOMAS.

AN ACT concerning appeals from the judgment of justices of the peace to the county courts. Adopted from the Kentucky Code.

Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same:

SEC. 1. All judgments given by any such justice or justices, when the amount thereof shall not exceed four dollars sixteen cents and two-thirds of a cent, shall be final. In all judgments, where the amount thereof shall exceed four dollars sixteen cents and two-thirds of a cent, the party against whom such judgment shall be given shall have a right to appeal from the same to the next county court to be held for the county, wherein the judgment was rendered: *Provided*, there be ten days between granting the judgment from which the appeal is made and the sitting of the court. Whereupon the justice or justices, who gave such judgment, shall suspend all further proceedings thereon, and shall return the papers and the judgment he had given to the clerk of the said court; and the said court shall thereupon, at their next session, hear and determine the same in a summary way, without pleading in writing, according to the justice of the case; unless the said court, for good cause to them shown,

shall continue the same to the next court, beyond which second court such appeal upon no pretense shall be continued, and execution may be taken out on a judgment given by said court on such appeal in the same manner as if the cause had been originally instituted in the said court; and in all cases when any party may desire to appeal from judgment of a justice pursuant to this act, he shall receive from the justice a copy of such judgment, and produce the same to the clerk of the county court, who shall enter into a bond in the office of such clerk in a penalty double the sum of such judgment with security, who shall be approved of by the justice from whose judgment the appeal is made. Such bond shall be conditioned for the payment of the debt and costs in case the judgment shall be confirmed on the trial of the appeal. Upon the execution of such bond, the clerk shall certify the same to the magistrate and constable, enjoining further proceedings, and issue a summons to the appellee to appear at the court to which the appeal is returned, noting the day the same shall be set for trial by the clerk. The constable shall summon the appellee, his agent or attorney, if within the county, which summons shall be executed ten days before the court wherein the same shall be tried.

SEC. 2. Where the appellee shall reside in another county, the clerk of the court, to which the appeal is made, shall have power and authority to issue a summons to cause such appellee to appear before the court; which summons shall be executed by the appellant, or some other person for him on the appellee, and satisfactory proof of the service shall be made to the court to which the summons shall be returned; and if the appellant shall neglect to execute or cause to be executed such summons on the appellee, before the second court after praying an appeal, the judgment of the justice shall stand confirmed.

SEC. 3. It shall be the duty of the justice, who gave the judgment, to lodge with the clerk at, or before, the next court any papers produced and read on the trial before him; and if no papers, to certify the same to the clerk noting therein all the costs. The clerk shall docket the same in order. The court shall proceed and determine the appeal in a summary way at their next court and give such judgment as to them shall seem just with respect to the costs as well as the debt; but may grant a continuance, if they deem it right, to the next term but not longer; and in all appeals from the judgment of a single justice, the parties shall have the benefit of all legal testimony that can be produced.

The foregoing is hereby declared to be a law of this Territory, and to take effect from the date thereof.

In testimony whereof, we, Ninian Edwards, Governor, and Jesse B. Thomas, Alexander Stuart and Obadiah Jones, Judges, have hereunto signed our names, at Kaskaskia, the twenty-sixth day of January, in the year of our Lord one thousand eight hundred and ten, and of the Independence of the United States the thirty-fourth.

A true copy, attest,
WILLIAM ARUNDEL, Clerk.

NINIAN EDWARDS,
ALEXR. STUART,
OBADIAH JONES,
JESSE B. THOMAS.

AN ACT concerning the clerks of the county courts.

Be it enacted by the Governor and Judges of the Illinois Territory and it is hereby enacted by the authority of the same: That all duties hitherto required by law to be performed by the clerks of the courts of common pleas, shall be performed by the clerks of the county courts, except those which necessarily belong to the clerk of the general court by virtue of the duties which are assigned to him, any law to the contrary notwithstanding.

The foregoing is hereby declared to be a law of the Territory and to take effect from the date thereof.

In testimony whereof, we, Ninian Edwards, Governor, and Alexander Stuart and Jesse B. Thomas, Judges, have hereunto signed our names, at Kaskaskia, this twenty-sixth day of January, in the year of our Lord one thousand eight hundred and ten, and of the Independence of the United States the thirty-fourth.

A true copy, attest,
WILLIAM ARUNDEL, Clerk.

NINIAN EDWARDS,
JESSE B. THOMAS,
ALEX. STUART,
OBADIAH JONES.

AN ACT repealing part of a law, entitled, "A law for the prevention of vice and immorality."

Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same: That so much of the act, entitled, "An act for the prevention of vice and immorality," as requires the same to be executed by the judges of the supreme or general court, except when the same may come before them when sitting as a court, shall be, and the same is, hereby repealed.

The foregoing is hereby declared to be a law of the Territory and to take effect from the date thereof.

In testimony whereof, we, Ninian Edwards, Governor, and Alexander Stuart, Obadiah Jones and Jesse B. Thomas, Judges, have hereunto signed our names, at Kaskaskia, this twenty-sixth day of January, in the year of our Lord one thousand eight hundred and ten, and of the Independence of the United States, the thirty-fourth.

A true copy, attest,
WILLIAM ARUNDEL, Clerk.

NINIAN EDWARDS,
JESSE B. THOMAS,
ALEX. STUART,
OBADIAH JONES.

[AN ACT] concerning fornication and adultery. Adopted from the Georgia code.

Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same:

Whereas it is highly injurious in civilized society, that man or woman should live in adultery or fornication together,

Be it enacted: That from and after the passing of this act, that any man or woman who shall live together in like manner, it shall be the duty of any of the neighboring justices, if within their knowledge, or upon information to them on oath, that such man and woman do

live in adultery or fornication, shall thereupon cause the said man and woman to be brought before them, or either of them; whose duty it shall be to bind them over to appear at the next superior court; and the attorney or solicitor general shall then and there prefer a bill of indictment against both the man and the woman, and on conviction thereof, they shall pay for the first offence a sum not exceeding forty eight dollars; and for the second offence a sum not exceeding one hundred and twenty dollars; and for the third offence a sum not exceeding three hundred and sixty dollars; and stand commuted to jail, until all, and every of the several sums imposed as aforesaid, shall be paid, or continue therein not exceeding twelve months.

The foregoing is hereby declared to be a law of this Territory, and to take effect from the date thereof.

In testimony whereof, we, Ninian Edwards, Governor, and Jesse B. Thomas, Alexander Stuart and Obadiah Jones, Judges, have hereunto signed our names, at Kaskaskia, this twenty-sixth day of January, in the year of our Lord, one thousand eight hundred and ten, and of the Independence of the United States the thirty-fourth.

NINIAN EDWARDS,
JESSE B. THOMAS.
ALEXR. STUART,
OBADIAH JONES.

AN ACT regulating the manner of taking depositions. Adopted from the Georgia code.

Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same: That where any witness resides out of the Territory, or out of any county in which his testimony may be required in any cause, it shall be lawful for either party, on giving at least ten day's notice to the adverse party, or his, her or their attorney, accompanied with a copy of the interrogatories intended to be exhibited, to obtain a commission from clerk of the court in which the same may be required, directed to certain commissioners to examine all and every such witness on such interrogatories as the parties may exhibit; and such examination shall be read at the trial, on motion of either party.

The foregoing is hereby declared to be a law of this Territory, and to take effect from the first day of May next.

In testimony whereof, we, Ninian Edwards, Governor, and Jesse B. Thomas, Alexander Stuart and Obadiah Jones, Judges, have hereunto signed our names, at Kaskaskia, the twenty-sixth day of February, in the year of our Lord one thousand eight hundred and ten, and of the Independence of the United States the thirty-fourth.

NINIAN EDWARDS,
JESSE B. THOMAS,
ALEXR. STUART,
OBADIAH JONES.

A true copy, attest,
WILLIAM ARUNDEL, *Clerk.*

AN ACT prescribing the duty of sheriffs in a certain case. Adopted from the Georgia code.

Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same: That where any sheriff shall levy an execution on property claimed by any person not a party to such execution, such person shall make oath to such property; and it shall be the duty of the sheriff to postpone the sale or future execution of the judgment, until the next term of the court from whence the execution issued; and such court shall cause the right of property to be decided on by a jury at the same term; unless special cause be shewn to induce the court to continue the same for one term and no longer: *Provided*, the person claiming such property, or his attorney, shall give bond to the sheriff with security in a sum equal to the amount of the execution, conditioned to pay the plaintiff all damages, which the jury on the trial of the right of property may assess against him, in case it should appear that such claim was made for the purpose of delay. And every juror on the trial of such claim shall be sworn, in addition to the oath usually administered, to give such damages, not less than ten per cent, as may seem reasonable and just, to the plaintiff against the claimant, in case it shall be sufficiently shewn that such claim was intended for delay only. And it shall be lawful for such jury to give a verdict in manner aforesaid, by virtue whereof judgment may be entered up and execution issued against such claimant, and, *Provided also*, the burthen of the proof shall lay on the plaintiff in execution.

The foregoing is hereby declared to be a law of this Territory and to take effect from the first day of May next.

In testimony whereof, we, Ninian Edwards, Governor, and Jesse B. Thomas, Alexander Stuart and Obadiah Jones, Judges, have hereunto signed our names, at Kaskaskia, the twenty-sixth day of February, in the year of our Lord one thousand eight hundred and ten, and of the Independence of the United States the thirty fourth.

A true copy, attest,

WILLIAM ARUNDEL, Clerk.

NINIAN EDWARDS.
JESSE B. THOMAS,
ALEXR. STUART,
OBADIAH JONES.

AN ACT to repeal part of an act of the General Assembly of the Indiana Territory passed the seventeenth day of September, in the year one thousand eight hundred and seven, entitled, "An act respecting crimes and punishments."

Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same: That from, and after, the first day of May next, so much of the act of the Indiana Legislature entitled, "An act respecting crimes and punishments," as relates to burglary, robbery and perjury, shall be and the same is hereby repealed.

Be it further enacted: That from, and after, the first day of May next, so much of the before recited act, as prescribes any limitation of the time, in which prosecutions for forgery, perjury or any felony, shall be commenced, shall be and the same is hereby repealed.

In testimony whereof, we, Ninian Edwards, Governor, and Jesse B. Thomas, Alexander Stuart and Obadiah Jones, Judges, have hereunto signed our names, at Kaskaskia, this twenty-seventh day of February, in the year of our Lord one thousand eight hundred and ten, and of the Independence of the United States the thirty-fourth.

NINIAN EDWARDS,
JESSE B. THOMAS,
ALEXR. STUART,
OBADIAH JONES.

A true copy, attest,
WILLIAM ARUNDEL, *Clerk*.

AN ACT repealing part of an act entitled, "An act concerning appeals from the judgment of justices of the peace to the county courts."

Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same: That so much of the said act as authorises the county court to decide on appeals from the judgment of justices of the peace for any sum exceeding twenty dollars, exclusive of costs, is hereby repealed.

This act to take effect from the date thereof.

In testimony whereof, we, Ninian Edwards, Governor, and Jesse B. Thomas, Alexander Stuart and Obadiah Jones, Judges, have hereunto signed our names, at Kaskaskia, this twenty-seventh day of February, in the year of our Lord one thousand eight hundred and ten, and of the Independence of the United States the thirty-fourth.

NINIAN EDWARDS,
JESSE B. THOMAS,
ALEXR. STUART,
OBADIAH JONES.

A true copy, attest,
WILLIAM ARUNDEL, *Clerk*.

A LAW concerning grand jurors. Adopted from the Kentucky Code.

Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same: [That] the sheriff of each county, where a superior court of criminal jurisdiction is appointed to be holden, shall before every meeting of such court summon twenty-four of the most discreet housekeepers, residing within the limits of the jurisdiction of the said court, to appear at the succeeding court, on the first day thereof; and the said twenty-four housekeepers, or any sixteen of them, shall be a grand jury, who shall be sworn to enquire of and present all treasons, felonies, murders and other misdemeanors whatsoever, which shall have been committed or done within the limits of the jurisdiction of the said court. And if a sufficient number of the said housekeepers shall not attend on the first day of the court, the sheriff shall summon from the by-standing housekeepers of the description aforesaid a sufficient number, together with those attending, to make a jury.

The foregoing is hereby declared to be a law of the Territory, and to take effect from the date thereof.

In testimony whereof, we, Ninian Edwards, Governor, and Jesse B. Thomas, Alexander Stuart and Obadiah Jones, Judges, have hereunto signed our names, at Kaskaskia, this third day of March, in the year of our Lord one thousand eight hundred and ten, and of the Independence of the United States the thirty-fourth.

A true copy, attest,
WILLIAM ARUNDEL, Clerk.

NINIAN EDWARDS,
JESSE B. THOMAS.
ALEX. STUART,
OBADIAH JONES.

AN ACT to prevent unlawful gaming. Adopted from the Virginia Code.

Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same:

SEC. 1. That all promises, agreements, notes, bills, bonds, or other contracts, judgments, mortgages, or other securities or conveyances whatsoever, made, given, granted, drawn or entered into or executed by any person or persons whatsoever, after passing this act, where the whole, or any part, of the consideration of such promise, agreement, conveyances or securities shall be for money or other valuable thing whatsoever, won, laid or betted at cards, dice, tables, tennis, bowles or any other game or games whatsoever, or at any horse race, cock fighting, or any other sport or pastime, or on any wager whatsoever, or for the reimbursing or repaying any money, knowingly lent or advanced at the time and place of such play, horse racing, cock fighting, or other sport or pastime, to any person or persons so gaming, betting, or wagering, or that shall at such time and place, so play, bet or wager, shall be utterly void and of none effect, to all intents and purposes whatsoever; any law, custom or usage to the contrary thereof in anywise notwithstanding.

SEC. 2. Any conveyance, or lease of lands, tenements or hereditaments, sold, demised or mortgaged, and any sale, mortgage, or other transfer of slaves or other personal estate, to any person, or for his use to satisfy or secure money, or other thing by him won of, or lent or advanced to the seller, lessor or mortgagor, or whereof money or other thing so won, or lent or advanced, shall be part or all of the consideration money, shall inure to the use of the heirs of such mortgagor, lessor, bargainor or vender, and shall vest the whole estate and interest of such person in the lands, tenements or hereditaments so leased, mortgaged, bargained or sold, and in the slaves, or other personal estate, so sold, mortgaged or otherwise transferred, to all intents and purposes, in the heirs of such lessor, bargainor, mortgagor or vender, as if such lessor, bargainor, mortgagor or vender had died intestate.

SEC. 3. If any person, or persons, whatsoever at any time hereafter within the space of twenty-four hours by playing at any game or games whatsoever, or by betting on the sides or hands of such as do play at any game or games, shall lose to any one, or more person or persons, so playing or betting, the sum or value of seven dollars or more in the whole, and shall pay or deliver the same or any part

thereof, the person, or persons, so losing, and paying or delivering the same shall be at liberty within three months then next following to sue for and recover the money or goods so lost, and paid or delivered, or any part thereof, from the respective winner or winners thereof with costs of suit, by action of debt founded on this act, to be prosecuted in any court of record in this Territory, where the sum or value thereof shall be cognizable; in which action it shall be sufficient for the plaintiff to allege that the defendant is indebted to the plaintiff, or received to the plaintiff's use, the money so lost, and paid or converted the goods won of the plaintiffs to the defendants use, whereby the plaintiff's accrued to him according to the form of this act, without setting forth the special matter; and in case the party losing such money, or other thing, as aforesaid, shall not within the time aforesaid, really and *bona fide*, without covin or collusion, sue and with effect prosecute for the money, or other thing so lost and paid or delivered, it shall and may be lawful to and for any other person, or persons, by any such action or suit as aforesaid, to sue for and recover the same, and treble the value thereof, with costs of suit, against such winner, or winners, as aforesaid, the one moiety thereof to the use of the person, or persons, suing for the same and the other moiety to the use of the Territory.

SEC. 4. *Provided, always*, that upon discovery and repayment of the money, or other thing, so to be discovered and repayed as aforesaid, the person and persons discovering and repaying the same, shall be acquitted, indemnified and discharged from any further or other forfeiture, punishment or penalty, which he or they may have incurred by the playing for, or winning, such money or other thing so discovered and repaid.

SEC. 5. And to prevent gaming at ordinaries and other public places, which must be often attended with quarrels, disputes and controversies, the impoverishment of many people and their families, and the ruin of health, and corruption of the manners of youth, who upon such occasion frequently fall in company with lew'd, idle and dissolute persons, who have no other way of maintaining themselves but by gaming; *Be it further enacted*: that if any person or persons shall at any time play in an ordinary, race field or any other public place, at any game or games whatsoever, except billiards, bowles, back gammon, chess or draughts, or shall bet on the sides or hands of such as do game, every such person upon conviction thereof before any justice of the peace in any county within this Territory by the oath of one or more credible witness or witnesses, (which oath the said justice is hereby empowered to administer) or by the view of such justice, or the confession of the party accused, shall forfeit and pay twenty dollars to be levied by distress and sale of the offender's goods, by warrant under the hand of the justice, before whom such conviction shall be, and for the use of the county wherein such offence shall be committed; and moreover, every person so convicted shall be committed to the county jail, there to remain until he, she or they give sufficient security for his, her or their good behaviour for twelve months next after such conviction.

SEC. 6. If any person by playing or betting at any game or wager whatsoever, at any time within the space of twenty-four hours, shall lose or win to or from another, a greater sum, or anything of greater value, than twenty dollars, the loser and winner shall be liable to pay one-half of the entire sum above the said sum of twenty dollars, which he shall so win or lose; and upon information thereof made to the general court and due proof thereof had, such general court shall levy upon the goods and chattels of the offenders the full penalty incurred, which shall be applied to the use of the Territory.

SEC. 7. And whereas, divers lew'd and dissolute persons live at great expenses, having no visible estate, profession or calling to support them, but by gaming only; *Be it therefore enacted:* that it shall be lawful for any two justices of the peace in any county to cause to come, or be brought, before them every person within their respective limits, whom they shall have just cause to suspect to have no visible estate, profession or calling to maintain himself by, but for the most part supporting himself by gaming; and if such person shall not make it appear to such justices that the principal part of his expenses is not maintained by gaming, they shall require of him sufficient securities for his good behaviour for the space of twelve months; and on refusal thereof shall commit him to the common jail, there to remain until he shall find such securities; and if such person shall give such securities, and afterwards within that time shall play or bet for any money or other valuable thing whatsoever, such playing or betting shall be a breach of the behaviour, and a forfeiture of the recognizance given for the same.

Sec. 8. *And be it further enacted:* that if any person, or persons, whatsoever, do or shall at any time or times by any fraud, shift, cozenage, circumvention, deceit, unlawful device or evil practice whatsoever, in playing at, or with, cards, dice, or any other game or games, or in or by bearing a share or part in the stakes, wagers or adventures, or in or by betting on the sides or hands of such as do, or shall play, win, obtain, or acquire to him or themselves, or to any other or others, any sum or sums of money, or other valuable thing or things, whatsoever, every person so winning by such ill practice, and being thereof convicted upon indictment or information, shall forfeit five times the value of the money, or other things, so won, and suffer such corporal punishment as in cases of wilful perjury; and such penalty shall be recoverable with costs by any person, or persons, suing for the same by action of debt in any court of record in this Territory having cognizance thereof.

Sec. 9. *Provided always,* that any person agrieved by the judgment of any justice of the peace upon any conviction for any of the offences in this act cognizable before him, may appeal to the next general court to be held for the county, where such person shall be convicted: but shall give reasonable notice of such appeal to the party, prosecuting him or her, and shall also enter into recognizance with two sufficient securities before some justice of the county, wherein the judgment was given on condition to try such appeal at the next general court held for said county after entering such appeal

which shall be by the said court then heard and finally determined: *Provided*, that no such judgment shall be set aside for want of form, wherein it shall appear to the court that the facts were sufficiently proved at the trial.

Sec. 10. All and every keeper or keepers, exhibitor or exhibitors, of either of the gaming tables, commonly called A. B. C or E O tables or of a farro bank, or any other gaming table, or bank of the same or the like kind, under any denomination whatever, shall be deemed and treated as vagrants; and moreover, it shall and may be lawful for any justice of the peace by warrant under his hand to order any such gaming table to be seized and publicly burnt or destroyed.

Sec. 11. No person in order to raise money for himself or another shall publicly or privately put up a lottery of blanks and prizes to be drawn or adventured for, or any prize or thing to be raffled or played for, and whoever shall offend herein shall forfeit the whole sum of money proposed to be raised by such lottery, raffling, or playing to the use of the Territory.

Sec 12. That all monies exhibited for the purpose of alluring persons to bet against, at any game, and all moneys actually staked or betted whatsoever, shall be liable to seizure by any magistrate or magistrates, or by any other person or persons under a warrant from a magistrate, wheresoever the same may be found; and all such monies so seized shall be accounted for and paid by the person, or persons, making the seizure to the court of the county, wherein the seizure shall be made, and applied by the court in aid of the levies, deducting thereout fifty *per centum* upon all monies so seized to be paid to the person, or persons, making the said seizure.

Sec. 13. Any person whatsoever, who shall suffer any of the games played at the tables commonly called A. B. C. or E O or farro bank, or any other gaming table or bank of the same or the like kind, under any denomination whatever, to be played in his or her house or in a house, of which he or her hath at the time the use or possession, shall for every such offence forfeit and pay the sum of one hundred and fifty dollars to be recovered in any court of record by any person who will sue for the same.

Sec. 14. Whenever a judgment shall be obtained for any fine incurred by a breach of any law for preventing gaming, twenty dollars shall be taxed in the bill of costs for a lawyer's fee.

Sec. 15. Any person, or persons, who shall oppose the seizure of such monies as above described by any person, or persons, so authorised to make it, shall be liable to a penalty of fifteen hundred dollars, to be recovered in any court of record for the use of the Territory, and shall be moreover liable to the action of any party grieved by such opposition; and any person or persons, who shall take or carry away any part of the said money after the said seizure, shall be declared, shall be guilty of a misdemeanor.

Sec. 16. That every fine for forfeiture and penalty, imposed, declared, inflicted or incurred, or which may be imposed, declared, inflicted or incurred, for the use of the Territory, under any act, or part or parts of any act, heretofore made, for the prevention or discourage-

ment of any kind of unlawful gaming or for the suppression thereof, shall and may be recovered in the general court in this Territory upon presentment or indictment by a grand jury, or upon information filed by the attorney general in said court, or by action of debt, bill, plaint, or any other legal ways or means whatsoever; and in every such case no exception shall be admitted or sustained for any defect or want of form, in any presentment, indictment, information, or other suit or action whatsoever, which may be brought or instituted on behalf of the Territory, or of any person, or persons, entitled to sue for the same, either on his own behalf, or on behalf of such person or the Territory; but the court, before whom any such presentment, indictment, information, suit or action shall be brought, shall proceed to give judgment according to the very right of the case, any former law, custom or usage to the contrary notwithstanding.

Sec. 17. And for the prevention of unnecessary delays in the prosecution of offenders; *Be it further enacted:* That where any presentment or indictment authorised by this, or any other act, shall be made by a grand jury, the court, wherein the same shall be made, shall immediately order the proper process to bring the offender before them, returnable with all convenient expedition, which process may be directed to the sheriff, or other officer, of any county within this Territory, where the offender or offenders may be found, and such sheriff, or other officer, to whom the same shall be directed, is hereby empowered and required to execute the same, and make return thereof to the court from which it issued; and if the defendant, being duly summoned, shall fail to appear, and plead to such presentment or indictment immediately, the court shall forthwith proceed to give judgment against him in the same manner as if he had appeared and confessed the charge, or denying it, had been found guilty by the verdict of a jury, and may award execution against him accordingly; but if he shall appear and plead not guilty to the presentment or indictment, the court shall without delay proceed to the trial and render judgment according to the very right of the case, as herein before directed; and whereupon any rule to shew cause why an information should not be filed by the attorney for the Territory, the defendant shall fail to appear and shew cause, pursuant to the notice duly given him, or left at his usual place of abode, in every such case, if the information be thereafter filed, the court may on any day after the day of shewing cause, proceed to give judgment upon such information, in the same manner as upon presentment or indictment by a grand jury. *Provided, nevertheless,* that if the offender, against whom any judgment may be rendered, for want of his appearing to answer the presentment or indictment or to shew cause against the filing of the information, shall at any time during the same term, appear and surrender himself in custody, or give bail, being ruled so to do by the court, for his appearance when required and plead not guilty to the presentment, indictment or information, it shall be lawful for the court in every such case to set aside the judgment against him, and thereupon the court shall, without delay, proceed to the trial in the same manner, as

if he had appeared and pleaded there in the first instance; and shall render judgment thereupon according to the very right of the case without regard to any exception that may be alleged against it.

Sec. 18. Whenever judgment shall be rendered against any offender by virtue of this act, if he be not present, the court may award a *capias* for the fine, and also to bring the body of the offender before the court in order to be dealt with as the law directs; which *capias* may be directed to the sheriff, or other officer, of any county within this Territory, where the offender may be found, and such sheriff or other officer, to whom the same shall be directed, is hereby empowered and required to execute the same and make return thereof to the court from which it issued; and upon every such *capias*, the sheriff or other officer shall take good and sufficient bail in a sum not exceeding five hundred dollars, nor less than two hundred dollars, for the appearance of the defendant on the first day of the next court; and if he shall fail to take such bail, he shall forfeit a sum not exceeding five hundred dollars to the Territory; and if the defendant being bailed shall fail to appear accordingly, the bail bond shall be forfeited and shall immediately be put in suit, and the clerk shall endorse upon the writ that bail is required.

Sec. 19. And for the removing certain doubts, which have arisen, in the construction of some of the acts, or parts of acts, made for the preventing, discouraging and suppressing unlawful gaming; *Be it further enacted and declared:* That every house of entertainment, or public resort, within this Territory, whether the same be a licensed tavern or not, shall be deemed and taken to be a tavern, and the owner, master, keeper or occupier of every such house, shall be deemed a tavern keeper within the true intent and meaning of this act; and the owner, master, keeper or occupier of any tavern, licensed or unlicensed, shall moreover be deemed to be the owner, master, keeper and occupier of every house, out-house, booth, arbor, garden and other place within the curtilage of the principal house, tavern, messuage or tenement, or in any wise appurtenant thereto, or at any time held therewith, and every such house, out-house, booth, arbor, garden and other place shall be considered as part of the tavern, unless the same shall have been *bone fide* leased to some other person by deed, indented and recorded previous to the time of any offence against any act for preventing unlawful gaming, or for regulating ordinaries and restraint of tippling houses, committed therein for a term not less than twelve months from the day of the date of such lease and for a valuable consideration *bone fide* paid, or secured to be paid, and unless the lessor and his family shall *bone fide* dwell and board therein, and not elsewhere; and if any such lease or pretended lease be made or recorded, and the lessee shall not actually dwell and board himself and family in the house or premises so demised, or pretended to be demised; or if the lessee shall directly or indirectly board or diet himself elsewhere; every such lease or demise shall be taken to be fraudulent within this act, and both the lessor and lessee and his assigns shall be liable to the same pains, penalties, fines, forfeitures and judgments, as if he or they or either of them were tavern keepers, and occupiers of the premises so leased or demised, and judgment against the one, shall

be no bar or impediment to a prosecution, judgment and recovery against the other for any offence committed within the same, contrary to the true intent and meaning of this act, or of any other act or acts, or part of any act or acts, for preventing, discouraging or suppressing unlawful gaming.

SEC. 20. *And be it further enacted:* That every keeper or exhibitor of any of the tables commonly called A. B. C. or E. O. tables, or farro bank, or any other gaming table of the same or like kind under any denomination whatsoever, or whether the same be played with cards, or dice or in any other manner whatever, and every unlicensed tavern keeper, who shall suffer any unlawful gaming upon any part of the premises in his, or her, occupation, shall in addition to the penalties, which he might or may be subject to under any former law whatsoever, forfeit and pay one hundred dollars for every offence, which he or they may be guilty of, against the true intent and meaning of this act, or any former act for preventing, or discouraging or suppressing unlawful gaming, and shall be compelled to give security for his, or her, good behaviour in the sum of five hundred dollars or more in the discretion of the court. And if he shall thereafter be guilty of the same or like offence, it shall be deemed a forfeiture of his recognizance, and he shall be imprisoned without bail or mainprize until the sum, in which he may be therein bound, shall be paid, or until he shall be discharged under the several acts for the relief of insolvent debtors.

SEC. 21. *And be it further enacted:* That the general court shall have the power of revoking the licenses of tavern keepers in any case of delinquency in permitting unlawful gaming in their houses or taverns.

SEC. 22. In every case that may arise under any law for the preventing, discouraging or suppressing of gaming, the court shall interpret them as remedial, and not as penal statutes.

And be it further enacted: That the judges of the general court are hereby empowered to execute this, and all other laws, for the purpose of suppressing gaming

The presiding judge shall constantly give this act in charge to the grand jury at the times when such grand jury shall be sworn.

The foregoing is hereby declared to be a law at this Territory, and to take effect from and after the seventh day of April next.

In testimony whereof, we, Ninian Edwards, Governor, and Jesse B. Thomas and Alexander Stuart, Judges, have hereunto signed our names, at Kaskaskia, this ninth day of March, in the year of our Lord one thousand eight hundred and ten, and of the Independence of the United States the thirty-fourth.

A true copy, attest,
WILLIAM ARUNDEL, Clerk.

NINIAN EDWARDS,
JESSE B. THOMAS,
ALEXR. STUART.

AN ACT repealing parts of certain acts.

Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same: That as much of the sixth section of an act, entitled, "An act regulating the

admission and practice of attornies and counsellors at law," passed by the General Assembly of the Indiana Territory on the seventeenth day of September, in the year eighteen hundred and seven, as prohibits the judges of any other Territory or State from practising law in this Territory;

And also the fourth section of an act, entitled, "An act concerning the introduction of negroes and mulattoes into the Territory," passed by the said General Assembly on the seventeenth day of September, in the year eighteen hundred and seven, be, and are, hereby repealed.

The foregoing is hereby declared to be a law of the Territory, and to take effect accordingly from the date thereof.

In testimony whereof, we, Ninian Edwards, Governor, and Jesse B. Thomas and Alexander Stuart, Judges, have hereunto set our hands, at Kaskaskia, the thirtieth day of March, in the year of our Lord eighteen hundred and ten, and of the Independence of the United States the thirty-fourth.

A true copy, attest,
WILLIAM ARUNDEL, Clerk.

NINIAN EDWARDS,
JESSE B. THOMAS,
ALEXR. STUART.

AN ACT to suppress duelling. Adopted from the Virginia Code.

WHEREAS, experience has evinced that the existing remedy for the suppression of the barbarous custom of duelling is inadequate to the purpose, and the progress and consequences of the evil have become so destructive as to require an effort on the part of the Legislature to arrest a vice, the result of ignorance and barbarism, justified neither by the precepts of morality nor by the dictates of reason, for remedy whereof:

Be it enacted by the Acting Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same: That any person who shall hereafter wilfully and maliciously, or by previous agreement, fight a duel or single combat with any engine, instrument or weapon, the probable consequence of which might be death of either party, and in so doing shall kill his antagonist, or any other person or persons, or inflict such as that the person injured shall die thereof within three months thereafter, such offender, his aiders, abettors and counsellors being thereof duly convicted, shall be guilty of murder and suffer death by being hanged by the neck, any law, custom or usage of this Territory to the contrary notwithstanding.

And be it further enacted: That if any person whatsoever shall challenge another to fight a duel with any weapon or in any manner whatsoever, the probable issue of which may, or might, result in the death of the challenger or challenged; or if any person shall accept a challenge, or fight a duel with any weapon, or in any way whatsoever, the probable issue of which may, or might, terminate in the death of the challenger or challenged, such person shall be incapable of holding, or being elected to, any post of profit, trust or emolument, civil or military, under the government of this Territory.

And be it [further] enacted: That from and after the passing of this act, every person, who shall be appointed to any office or place, civil or military, in this Territory, shall in addition to the oath now

prescribed by law, take the following oath: "I do solemnly swear, or affirm, (as the case may be) that I have not been engaged in a duel by sending or accepting a challenge to fight a duel, or by fighting a duel, or in any other manner in violation of the act, entitled, "An act to suppress duelling" (since the passage of that act), nor will I be so concerned directly or indirectly in such duel during my continuance in office, so help me God."

And be it further enacted: That it shall be the duty of the presiding judge of the general court at each session of the court to give in charge expressly to the jury this law, and also to charge the jury to present all persons concerned in carrying, sending or accepting a challenge.

And be it further enacted: That when any judge or magistrate of this Territory has good cause to suspect any person, or persons, are about to be engaged in a duel, he may issue his warrant to bring the parties before him; and if he shall think proper, to take of them a recognizance to keep the peace. He shall insert in the condition, that the party, or parties, shall not during the time for which they were bound, directly or indirectly be concerned in a duel, either with the person suspected or any other person, within the time limited by the recognizance.

And be it further enacted: That if any person, or persons, shall, for the purpose of eluding the operation of the provisions of this law, leave the Territory, the person, or persons, so offending shall be deemed as guilty and be subject to the like penalties as if the offence had been committed within this Territory. If any person shall leave this Territory with the intention of giving or receiving a challenge to fight a duel, or of aiding or abetting in giving or receiving such challenge, and a duel shall actually be fought, whereby the death of any person shall happen, and the person so leaving the Territory shall remain thereout, so as to prevent his apprehension for the purpose of a trial; or if any person shall fight a duel in this Territory, or aid or abet therein, whereby any person shall be killed, and then flee into another State or Territory to avoid his trial, in either case it shall be the duty of the Executive, and they are hereby directed to adopt and pursue all legal steps, to cause any such offender to be apprehended and brought to trial in the county where the offence was committed, when the duel shall have been fought within the Territory; and, when it shall have been fought without the Territory, then in that county where, in the opinion of the executive, the evidence against the offender can be best obtained and produced upon his trial.

And be it further enacted: That it shall be the duty of the attorney general of the Territory to give information to the executive, whenever a case shall arise, which shall render the interposition of the executive authority under this act necessary, and the deputies of the attorney general at the first court, which shall be held, in which they are to act as prosecuting attorneys, after they have accepted their appointments, shall take the following oath: "I do solemnly

swear, or affirm, (as the case may be) that I will to the best of my judgment, execute the duty imposed on me by the act for suppressing duelling, so help me God."

And be it further enacted: That all words, which from their usual common construction and acceptance are considered as insults, and lead to violence and breach of the peace, shall hereafter be actionable; and no plea, exception or demurrer shall be sustained in any court within this Territory to preclude a jury from passing thereon, who are hereby declared to be the sole judges of the damage sustained: *Provided*, that nothing herein contained shall be construed to deprive the several courts of this Territory from granting new trials as heretofore.

The foregoing is hereby declared to be a law of the Territory, and to take effect accordingly from the date thereof.

In testimony whereof, we, Nathaniel Pope, Secretary, now Acting Governor, and Jesse B. Thomas and Alexander Stuart, Judges, have hereunto signed our names, at Kaskaskia, the seventh day of April, in the year of our Lord one thousand eight hundred and ten, and of the Independence of the United States the thirty-fourth.

A true copy, attest,
WILLIAM ARUNDEL, Clerk.

NAT. POPE,
J. B. THOMAS,
ALEXR. STUART.

A LAW concerning advertisements.

WHEREAS, it is provided by several of the statute laws now in force in this territory, that advertisements should be inserted in some public newspaper published in the Territory for the time and in the manner therein required; and whereas, there is at this time no newspaper printed in this Territory:

Be it therefore enacted by the acting Governor and Judges of the Illinois Territory and it is hereby enacted by the authority of the same: That in all cases, where by law it is required that advertisements should be inserted in some newspaper in the Territory, it shall and may be lawful for all and every person and persons concerned, or whose duty it shall be, to have the said advertisements inserted in some of the newspapers published in the Louisiana Territory, for the times and in the manner required by law, which shall have the same force and effect, as if inserted in a newspaper published in this Territory.

This act shall take effect from the passage thereof, and shall continue in force until a newspaper is established and published in this Territory and no longer.

In testimony whereof, we, Nathaniel Pope, Secretary, now Acting Governor, and Jesse B. Thomas and Alexander Stuart, Judges have hereunto signed our names, at Kaskaskia, the twenty-first day of May, in the year of our Lord one thousand eight hundred and ten, and of the Independence of the United States the thirty-fourth.

A true copy, attest,
WILLIAM ARUNDEL, Clerk.

NAT. POPE,
ALEXR. STUART,
J. B. THOMAS.

AN ACT *repealing so much of the law of the regulating county levies as imposes a tax on neat cattle.*

Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same: That so much of any law or laws as provided for laying any tax on neat cattle shall be and the same is hereby repealed.

The foregoing is hereby declared to be a law of this Territory, and to take effect from the date thereof.

In witness whereof, we, Ninian Edwards, Governor and Jesse B. Thomas and Stanley Griswold, Judges, have hereunto signed our names, at Kaskaskia, the tenth day of October, in the year of our Lord, one thousand eight hundred and ten, and of the Independence of the United States the thirty-fifth.

A true copy, attest,
WILLIAM ARUNDEL, Clerk.

NINIAN EDWARDS,
JESSE B. THOMAS,
STANLEY GRISWOLD.

AN Act *concerning courts of common pleas.*

Be it enacted by the Governor and Judges of the Illinois Territory and it is hereby enacted by the authority of the same: That the fourth section of an act entitled, "An act concerning courts of common pleas and county courts," passed by the Governor and Judges of the Territory aforesaid on the sixteenth day of June eighteen hundred and nine, repealing the law that required the appointment of three judges to the court of common pleas, shall be, and the same is, hereby repealed.

Sec. 2 *Be it further enacted by the authority aforesaid:* That the third section of the before recited act, whereby county courts to consist of justices of the peace are established, except so far as relates to the times of holding courts shall be, and the same is, hereby repealed.

Sec. 3. *Be it [further] enacted by the authority aforesaid:* That any law, or laws, which have heretofore been enacted by the Governor and Judges aforesaid, taking from the court of common pleas any jurisdiction, except over suits and prosecution of a civil and criminal nature, shall be, and the same are, hereby repealed: *Provided, nevertheless,* that nothing herein contained shall be construed to deprive the said courts of common pleas of jurisdiction over appeals from the judgments of justices of the peace, as they are now regulated by law, or to deprive them of any powers which the county courts possessed.

Sec. 4. *Be it further enacted by the authority aforesaid:* That so much of any law, as repeals the law allowing the judges of the courts of common pleas two dollars per day for their services, shall be, and the same is, hereby repealed.

In testimony whereof, we, Ninian Edwards, Governor, and Alexander Stuart and Jesse B. Thomas, Judges, have hereunto signed our names at Kaskaskia, this twenty-second day of January, eighteen hundred and eleven, and of the Independence of the United States the thirty-fifth.

A true copy, attest,
WILLIAM ARUNDEL, Clerk

NINIAN EDWARDS,
ALEX. STUART,
J. B. THOMAS.

AN ACT concerning the powers of the Governor of the Territory of Illinois. Adopted from the constitution of the State of Pennsylvania.

Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same: That the Governor of the Territory aforesaid shall have power to remit fines and forfeitures and grant reprieves and pardons, except in cases of impeachment.

The foregoing is declared to be a law of the Territory, and to have effect as such.

In testimony whereof, we, Ninian Edwards, Governor, and Alexander Stuart and Jesse B. Thomas, Judges have hereunto subscribed our names, at Kaskaskia, in the Territory aforesaid on the twenty-third day of January, eighteen hundred and eleven, and of the Independence of the United States the thirty-fifth.

A true copy, attest,
WILLIAM ARUNDEL, *Clerk.*

NINIAN EDWARDS,
ALEX. STUART,
J. B. THOMAS,

AN ACT concerning occupying claimants of land. Adopted from the Kentucky code.

Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same: That whereas, from the frequency of interfering claims to land and the unsettled state of the country, it often happens that titles lay a long time dormant and many persons deducing a fair title from the record, settle themselves on land supposing it to be their own, from which they may afterwards be evicted by a title paramount thereto; and it is just that the proprietor of the better title shall pay the occupying claimant of the land for all valuable improvements made thereon, and also that the occupying claimant shall satisfy the real owner of the same for all damages that may have been done to the land by the commission of waste or otherwise during the occupancy. Therefore:

Sec. 1. *Be it enacted by the authority aforesaid:* That all and every person, who may hereafter be evicted from any land, for which he can shew a plain and connected title in law or equity deduced from the record of some public office without actual notice of an adverse title in like manner derived from record, shall be exempt and free from all and every species of action, writ or prosecution for, or on account of, any rents or profits or damages, which shall have been done, accrued or incurred at any time prior to receipt of actual notice of the adverse claim by which the eviction may be effected: *Provided*, [that] such person obtained peaceable possession of the land.

Sec. 2. *And be it further enacted:* That the court, who shall pronounce and give the judgment of eviction either in law or equity, shall at the time nominate seven fit persons, any five of whom shall have power; and it shall be their duty to go on the premises and, after viewing the same, on oath or affirmation to assess the value of all such lasting and valuable improvements, which shall have been made thereon prior to the receipt of such notice as aforesaid; and also to assess

all damages the land may have sustained by the commission of any kind of waste or by the reduction of soil by cultivation or otherwise during the occupancy of the person evicted, and then subtract the same from the estimated value of the said improvements; which assessment signed and sealed by the persons making the same shall be by them lodged with the clerk of the court, wherein they were nominated, before the next ensuing term or as soon thereafter as may be convenient; and at the next court after such assessment, it shall be entered up as a judgment in favor of the person evicted and against the successful claimant of the land, by the clerk. Upon which judgment, execution shall immediately be issued by the clerk, if directed by the person evicted; unless the successful claimant shall give bond and security, to be judged of by the court, to the person evicted, and to be taken at the time of entering up such judgment, conditioned to pay the same within twelve months from the date thereof with five per cent interest thereon, provided the balance shall ultimately be in favor of such occupying claimant, according to the directions and provisions of this act; which bond shall have the force of a judgment, and at the expiration of twelve months aforesaid an execution shall be issued upon the same by the clerk of the court, in which it was taken, at the request of the party entitled thereto, on oath being made that the same is yet due. Should the balance be in favor of the successful claimant, judgment in like manner shall be entered up in his favor against the other party for the amount of the same, upon which an execution may be issued as aforesaid, unless bond and security shall be given to such claimant, which may be acted upon in the manner before directed, and to declare what law shall be between the adverse claimants under distinct titles of the kinds aforesaid after notice.

Sec. 3. *Be it further enacted by the authority aforesaid:* That the persons nominated by the court as aforesaid, when making an assessment, shall carefully distinguish between such improvements as were made on the land prior to notice, and those which were made after notice; and when making an assessment they shall also take into consideration all such necessary and lasting improvements as shall have been made on the lands after the receipt of such notice as aforesaid, and shall ascertain the amount of the value thereof; and they shall also take into consideration and ascertain the amount of the value of the rents and profits arising from the whole of the improvements on the land from the time that notice of such adverse claim was received by the occupying claimant; and then after taking the amount of the one from the other, the balance shall be added to, or subtracted from, the amount of the value of the improvements, which shall have been made before the receipt of the notice aforesaid, as the nature of the case shall require.

Sec. 4. *Be it further enacted:* That the said commissioners shall also estimate the value of the lands in dispute exclusive of any improvements that shall have been made thereon, and make report of the amount of such valuation to the court; and if the value of the improvements shall exceed such estimated value of the land in dispute, in that case it shall, and may be, lawful for the proprietor of the better

title to transfer or convey, as the nature of the case may require, his better title to the occupying claimant, and thereupon a judgment shall be entered up in favor against the occupying claimant, for such estimated value, upon which an execution may issue; unless the occupying claimant shall give bond and security, to be approved of by the court, to pay the amount of such judgment within one year after the person transferring or conveying as aforesaid, with interest from the date, which bond shall have the force of a judgment; and if not paid at the expiration of the year, an execution may issue on the manner before directed by this act: *Provided, however*, that the proprietor of the better title shall, in every such case at the time of entering up judgment in his favor, give bond and security to be approved of by the court to the occupying claimant to refund the amount of such judgment in case the land so transferred or conveyed shall ever thereafter be taken from him by any other prior or better claim.

Sec. 5. *Be it further enacted*: That the persons, nominated by the court in virtue of this act, shall be called commissioners, and shall respectively take an oath or affirmation to do equal right to the parties in controversy, and shall also have power and authority to call witnesses, and administer the necessary oaths, and to examine them for the ascertainment of any fact material in the enquiry and assessment by this act directed.

Sec. 6. *And be it further enacted*: That the said commissioners in making every estimate of value by virtue of this act shall state separately the result of each, and the court shall have power to make such allowance to the said commissioners in any case as shall seem just, which allowance shall be taxed and collected as costs: *Provided*, that this act shall not be extended to affect or impair the obligations of contracts or to authorise the occupying claimant to be twice paid for his improvements; and in all cases where the occupying claimant is paid for his improvements by any other person than the proprietor of the better title, such person shall have the same redress as is allowed to the occupying claimant.

Sec. 7. *And be it further enacted*: That the court shall have the same power to proceed by appointing commissioners to assess the value of the improvements and the damages by the commission of any kind [of] waste, by reduction of soil, by cultivation or otherwise during the occupancy of the person evicted in case of arbitration or by consent of the parties on motion without suit.

SEC. 8. *And be it further enacted*: That notice of any adverse claim, or title to the land, within the meaning of this act shall have been given by bringing a suit either in law or equity for the same by the one or the other parties, and may hereafter be given, by bringing a suit aforesaid or by delivering an attested copy of the entry, survey or patent from which he derives his title or claim, or leaving any such copy with the party, his wife or other free person above the age of sixteen years on the plantation: *Provided, however*, that the notice be given by the delivery of an attested copy as aforesaid shall be void, unless suit is brought within one year thereafter: *Provided*

that in no case shall the proprietor of the better title be obliged to pay to the occupying claimant for improvements, made after notice, more than what is equal to the rents and profits aforesaid.

SEC. 9. *And be it further enacted:* That notice to any occupying claimant shall bind all those claiming from, by or through such occupying claimant to the extent of such claim.

SEC. 10. *And be it further enacted:* That nothing in this act shall be construed so as to prevent any court from issuing a precept to stay waste, and ruling the party to give bond and security in such manner as such court may think right.

This act shall be in force from the passage thereof.

The foregoing is hereby declared to be a law of this Territory.

In testimony whereof, we, Ninian Edwards, Governor, and Alexander Stuart and Jesse B. Thomas, Judges, have hereunto signed our names, at Kaskaskia, this twenty-fourth day of January, in the year of our Lord eighteen hundred and eleven, and of the Independence of the United States the thirty-fifth.

A true copy, attest,
WILLIAM ARUNDEL, Clerk.

NINIAN EDWARDS,
ALEXR. STUART,
J. B. THOMAS.

A LAW concerning the militia. Adopted from the militia law of South Carolina.¹

Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same: That all officers shall reside within their respective commands, and on their removal therefrom their commission shall be vacated.

That all brigadiers shall have the right to appoint their respective *aids de camp*, who shall have the rank of captain, and that they shall also have the right to appoint their respective brigade inspectors.

That the regimental staff shall be appointed by the colonels, respectively, and be approved by the brigadiers, and that all officers to be nominated and appointed as aforesaid shall be commissioned by the Governor.

That all fines shall [be] inflicted on non-commissioned officers and privates by the judgment of a majority of the commissioned officers in the company in which the offenders are enrolled.

All other laws within the purview of this law are hereby repealed.

The foregoing is hereby declared to be a law of this Territory, and to take effect from the date thereof.

In testimony whereof, we, Ninian Edwards, Governor, and Alexander Stuart and Jesse B. Thomas, Judges, have hereunto signed our names, at Kaskaskia, the seventeenth day of June, in the year of our Lord one thousand eight hundred and eleven, and of the Independence of the United States the thirty-fifth.

NINIAN EDWARDS,
ALEXR. STUART,
J. B. THOMAS.

¹ The last four are reprinted from the *Publications* of the Illinois State Hist. Lib., No. 2.

A LAW concerning the militia. Adopted from the Kentucky Code.

Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same: [That] the Governor shall provide for raising companies of grenadiers, light infantry, cavalry, riflemen and artillery agreeable to the laws of the United States at his discretion; and when raised and officered shall be subject to the laws and rules of the said United States and of this Territory as other militia.

Be it further enacted by the authority aforesaid: That so much of any law or laws as requires that the brigadiers shall choose their brigade inspectors from the commissioned officers of the brigade, and so much of any law as requires that the colonels of regiments shall select their regimental staff from the commissioned officers of the regiment, shall be and the same is hereby repealed.

The foregoing is hereby declared to be a law of this Territory, and to take effect from the date thereof.

In testimony whereof, we, Ninian Edwards, Governor, and Alexander Stuart and Jesse B. Thomas, Judges, have hereunto signed our names, at Kaskaskia, the twenty-sixth day of June, in the year of our Lord one thousand eight hundred and eleven, and of the Independence of the United States the thirty-fifth.

NINIAN EDWARDS.
ALEXR. STUART.
J. B. THOMAS.

A LAW altering the time of holding the general court at Cahokia, in the county of St. Clair.

Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same: [That] whereas, from the present appearances there is great reason to apprehend that the approaching fall will be uncommonly sickly, especially at the town of Cahokia, in the county of St. Clair, and that in consequence thereof, the judges of the general court, jurors, suitors and witnesses will, in many instances, be unable to attend the court at the next term, as now directed by law to be holden in said town:

Be it therefore enacted: That the general court shall hold its next session in the town of Cahokia on the the fourth Monday in the month of October next, and that all process issued since April last shall be considered as returnable to the said fourth Monday in October next.

This law shall take effect from and after the tenth day of August next.

In testimony whereof, we, Ninian Edwards, Governor, and Alexander Stuart and Jesse B. Thomas, Judges, have hereunto signed our names, at Kaskaskia, the thirty-first day of July, in the year of our Lord one thousand eight hundred and eleven, and of the Independence of the United States the thirty-sixth.

NINIAN EDWARDS,
ALEXR. STUART,
J. B. THOMAS.

The foregoing contains a true copy of all the laws enacted by the Governor and Judges and filed in the office of the Secretary from March first, eighteen hundred and eleven, to the thirty-first of August following, inclusive.

Given under my hand, at Kaskaskia, the twenty-eighth day of January, eighteen hundred and twelve.

AN ACT to repeal an act, entitled, "*An act to encourage the killing of wolves.*"

Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same: That an act passed by the Legislature of the Indiana Territory, bearing the date of the fourteenth day of September, in the year eighteen hundred and seven, entitled, "*An act to encourage the killing of wolves,*" be and the same is hereby repealed.

This act to take effect and be in force from and after the first day of January next.

The foregoing is hereby declared to be a law of the Territory, and to take effect accordingly.

In testimony whereof, we, Ninian Edwards, Governor, and Alexander Stuart, Jesse B. Thomas and Stanley Griswold, Judges, have hereunto subscribed our names, at Kaskaskia, the ninth day of November, in the year of our Lord, eighteen hundred and eleven, and of the Independence of the United States the thirty-sixth.

NINIAN EDWARDS,
ALEX. STUART,
J. B. THOMAS,
STANLEY GRISWOLD.

A true copy of all the laws passed from September first, eighteen hundred and eleven to the twenty-ninth of February, eighteen hundred and twelve.

NAT. POPE, *Secretary.*

